

N. KEITH CHAMBERS
EXECUTIVE DIRECTOR

STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

IN THE MATTER OF:)	
)	
HEATHER NEWMAN,)	
)	
Complainant,)	CHARGE NO. 2007CF0856
)	ALS NO. 07-588
)	
AND)	
)	
)	
BOWMAN THEATRES, INC.,)	
)	
Respondent.)	

RECOMMENDED ORDER AND DECISION

This matter is before me on Respondent Bowman Theatres, Inc.'s *Motion to Dismiss for Want of Prosecution*. Complainant, Heather Newman, has failed to file a response to that motion. For the reasons stated below, Respondent's motion is hereby GRANTED.

FINDINGS OF FACT

1. The Illinois Department of Human Rights filed a *Complaint of Civil Rights Violation* with the Commission on behalf of Complainant, Heather Newman, on August 3, 2007.
2. Respondent, Bowman Theatres, filed an *Answer to Complaint of Civil Rights Violation* on September 12, 2007.
3. On October 7, 2008, Complainant's attorney was suspended from the practice of law.

4. On October 22, 2008, Chief Administrative Law Judge Michael J. Evans ordered Complainant to obtain new counsel or file an appearance *pro se* within twenty-one (21) days. That order was sent to Complainant to her address of record at the time in Rochelle, Illinois. That order was returned by the U.S. Postal Service to the Commission as undeliverable mail with no forwarding address provided.
5. On December 22, 2008, Respondent filed a *Motion to Dismiss for Want of Prosecution*.
6. On January 6, 2009, Complainant contacted the Commission's Clerk via telephone and provided a new address in Kewanee, Illinois. On that date, Complainant stated that she would be filing an appearance form.
7. On March 3, 2009, an order was entered scheduling a telephone hearing on Respondent's *Motion to Dismiss for Want of Prosecution* for March 31, 2009 at 11:00 a.m. On March 4, 2009, that order was sent via First Class mail to Respondent's counsel and Complainant Newman to her Kewanee, Illinois address. In that order, Complainant was instructed to file an appearance with the Commission prior to the March 31, 2009 hearing date and was also ordered to provide the Commission's Clerk with a current telephone number.
8. The March 3, 2009 order sent to Complainant Newman at the Kewanee, Illinois address was not returned to the Commission as undeliverable.
9. Complainant Newman failed to file an appearance or provide a current telephone number to the Commission's Clerk prior to the March 31, 2009 telephone hearing. As of the date of this Recommended Order and Decision, Complainant has not provided the Commission with a current telephone number nor has she filed an appearance.

10. On March 31, 2009, a telephone hearing was held in which Respondent's counsel appeared. Complainant failed to appear on that date and has provided no explanation to the Commission as to why she failed to appear.
11. As of the date of this Recommended Order and Decision, no appearance of new counsel for Complainant Newman nor of Heather Newman as a *pro se* complainant has been filed.
12. Complainant Newman has not filed a response to Respondent's *Motion to Dismiss for Want of Prosecution*.

CONCLUSIONS OF LAW

1. Complainant's failure to file an appearance, failure to provide a telephone number to the Commission's Clerk and failure to appear on March 31, 2009 at 11:00 a.m. has unreasonably delayed the proceedings in this matter.
2. In light of Complainant's apparent abandonment of her claim, it is appropriate to dismiss this matter with prejudice.

DISCUSSION

Complainant Newman has taken absolutely no action to prosecute this matter since January 6, 2009 when she contacted the Commission's Clerk by telephone to provide a new address in Kewanee, Illinois. Without explanation, Complainant ignored the administrative law judge's order of March 3, 2009 by not filing an appearance and failing to provide the Commission's Clerk with a current telephone number so that Complainant could participate in the March 31, 2009 hearing. Complainant has also failed to provide any type of written response to Respondent's *Motion to Dismiss for Want of Prosecution*. For reasons unknown, it appears that Complainant has simply abandoned her claim. As a result, it is appropriate to dismiss her claim with prejudice. See Leonard and Solid Matter, Inc. IHRC, 4942, August 25, 1992.

RECOMMENDATION

Based on the foregoing, it appears that Complainant has abandoned her claim. Accordingly, it is recommended that the *Complaint of Civil Rights Violation* be dismissed with prejudice.

ENTERED: July 8th, 2009

HUMAN RIGHTS COMMISSION

**MARIETTE LINDT
ADMINISTRATIVE LAW JUDGE
ADMINISTRATIVE LAW SECTION**